

Appl. No. 10/721,123  
Amdt. dated Sept. 19, 2007  
Reply to Office action of June 21, 2007

Patent  
Docket No. UC-3

## **REMARKS/ARGUMENTS**

### **Office Action Summary**

Claims 1- 17 and 19-32 are pending in the application. Claims 1-6, 8-17, 19-25, and 27-32 stand rejected under 35 U.S.C. § 103(a) as being obvious under US published patent application number US2004/0235521 ("Pradhan et al.") in view of US published patent application number US2002/0147648 ("Fadden et al.") and in further view of US published patent application US2002/0132616 ("Ross et al."). Claims 7 and 26 stand rejected under 35 U.S.C. § 103(a) as being obvious under Pradhan et al. in view of Fadden et al., and in further view of US published patent application 2005/0107120 ("Yuch"). Applicant is unaware of any other rejections or objections pending in the application.

### **Amendments to the Claims**

Independent apparatus Claim 1 and independent method Claim 19 have been amended to recite the structure and function whereby the link request and in range signal communication establish a communication link between the devices, which causes the automatic execution of a bidirectional exchange of digital audio files between the two devices.

### **Rejections of Claims 1 and 19 under 35 U.S.C. § 103(a)**

Applicant respectfully traverses the rejection of Claims 1 and 19 in view of Pradhan et al. in view of Fadden et al. in further view of Ross et al. This combination of references does not teach, or fairly suggest, the automatic bidirectional exchange of digital audio files upon receipt of an in range signal that is responsive to a periodically transmitted link request signal.

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The Pradhan et al. reference teaches transfer of media files based on a secured access system. Essentially, one device request media from another, which is only transferred if the exchange is secured against fraudulent access to the media using access rights protected with an encryption and decryption process. This concept is calculated to insure payment of a fee for rights to the desired media, thereby avoiding copyrighted material piracy, etc. It is essentially a non-automatic process in that there must be verification of the receiving terminals access privileges in order for the transaction to occur. There is no teaching of suggestion of the use of a periodically transmitted link request and responsive in range signal. The rejection relies upon a combination with Fadden et al. to provide the omitted teachings. This reasoning is flawed.

Fadden et al. fails to teach or suggest any periodically transmitted link request by an audio file reproduction apparatus, or any other wireless device for that matter. The rejection relied upon sections [0058] through [0063] for such a teaching. No such teaching is found in those sections, nor anywhere else in the Fadden et al. reference. Fadden et al. is directed to point of sale solicitation and transaction associated with gasoline filling stations (see section [0002]). A kiosk server is coupled to several fuel pumps, and when the pumps are active pumping gas, the customer is solicited to purchase other items, which may include music content (see section [0006]). However, the transaction is initiated through the solicitation, not through transmission of a link request followed by an in range response. Also, the transaction in Fadden et al. is always a unidirectional, from the gas station to the customer, and never the reverse. With respect to the communication of MP3 files discussed on section [0062] in Fadden et al., such transactions are exactly the same as the sale of a physical product, except that the "product" can be delivered at the time of the purchase. However, the purchase process is not initiated using a link request and in range signal followed by an automatic transfer. Rather, the purchase process is initiated with a solicitation to the customer followed by the decision to buy.

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A proper § 103 rejection requires the teaching of each and every element and limitation in the rejected claim be found in the cited reference. The present rejection fails in that there is no teaching or suggestion of a periodic link request and in range signal reply. Nor is there any teaching or suggestion that an automatic bidirectional exchange of digital audio files occurs in response therebo. Accordingly, the rejection is improper and should be withdrawn. Such action is courteously solicited.

### **Dependent Claims**

Since the rejection of independent Claims 1 and 19 are improper, and all of the dependent claims depend from either independent Claim 1 or independent Claim 19, which are both now in condition for allowance, it is well settle law that each of the dependent claims are also in condition for allowance. Such action by the Examiner is courteously solicited.

### **Conclusion**

The foregoing is submitted as a full and complete response to the Office Action mailed June 21, 2007. The Applicant believes that the same places the present application in condition for allowance. Reconsideration by the Examiner and allowance of the claimed invention is hereby courteously solicited.

Since the total number of claims in the Application is unchanged, it is Applicant's belief that no other fess are presently due in the application. In the event that the Examiner determines otherwise, the Commissioner is hereby authorized to charge such additional fees, excluding the Issue Fee, to Daniel R. Brown Deposit Account No. 501507.

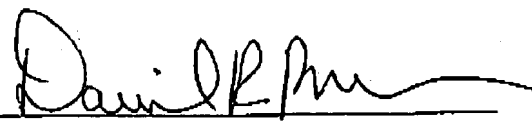
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Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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